

ORIGINAL



0000138161

Name: Patricia A. Behm
Address: 7698 Toya Vista Rd.
Payson, Arizona 85541
Telephone: (928)-474-2959
In Propria Persona

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUL 24 2012

DOCKETED BY

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COMMISSIONERS

Gary Pierce, Chairman
Paul Newman, Commissioner
Brenda Burns, Commissioner
Bob Stump, Commissioner
Sandra D. Kenndy, Commissioner

Before the Arizona Corporation Commission

J. Stephen Gehring, Bobby Jones, Lois
Jones Private Citizens, Injured Parties,
Complainants,
vs.
PAYSON WATER CO. INC./BROOKE
UTILITIES INC.
Respondents.

DOCKET NO. W-03514-A-12-0008

**APPLICATION FOR INTERVENTION
MOTION TO INTERVENE**

Pursuant to AAC R14-3-105 et seq.

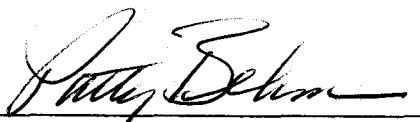
COMES NOW, Patricia A. Behm, a Property and Well Owner and Customer of BROOKE UTILITIES, INC./PAYSON WATER CO. INC. in the Mesa del Caballo System (PWS 04-030) to make her Application for Intervention and Motion to Intervene in the above captioned matter and proceedings in propria persona for the reasons cited in AAC R14-3-105 and the following:

- 1) That I am a Property and Well Owner and a Customer within the physical boundaries of the Community of Mesa del Caballo that is served by the Utility Company, Payson Water Co. Inc. (PWC 04-030) and Brooke Utilities, Inc. and have an invested interest in these proceedings;
- 2) That I, like so many other Customers of Payson Water Co. Inc. in the Mesa del Caballo System have been adversely affected by the ramifications, abuses and implementation of the Water Augmentation Surcharge(s) on the Community during the Augmentation Period of 2011 and has been made to suffer through the Augmentation Period of 2011 and the Modified Curtailment Plan now in effect under Decision 72901;
- 3) That none of the El Caballo Club Water Committee ever possessed legal authority to represent the People of the Community of Mesa del Caballo or the Property Owners or the Customers of the Mesa

del Caballo System in Payson Water Co. Inc. Application for the modification of the Curtailment Plan or for the implementation of a Water Augmentation Surcharge in any of the those previous proceedings before the Commission;

- 4) That I have a Water Sharing Agreement with Brooke Utilities, Inc. and Payson Water Co. Inc. and that I have not been fully and completely compensated for water obtained from my well from December, 2007. Recently I received compensation for the period April 17, 2011 to May 16, 2012 there is still owed to me for water obtained from my well for the period December 2007 to April 16, 2011. I have not been compensated on a regular bases as has been alleged by Mr. Hardcastle at the June 26 to 27, 2012 hearing and have attached my sworn affidavit and Exhibits;
- 5) That I wish to intervene in these current proceedings and particularly in the issue of the Water Augmentation Period of 2011;

Respectfully submitted this 23rd day of July 2012



Name of Person, in Propria Persona

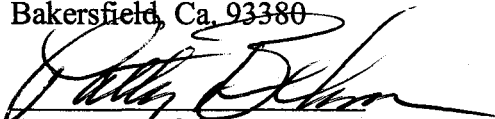
CERTIFICATE OF SERVICE

The Original and 13 Copies of the foregoing has been mailed this 23rd day July 2012 to the following:

DOCKET CONTROL
ARIZONA CORPORATION COMMISSION
1200 West Washington St.
Phoenix, Arizona 85007

A Copy of the Original of the foregoing has been mailed this 23rd day July 2012 to the following:

Robert T. Hardcastle
P. O. Box 82218
Bakersfield, Ca. 93380



By: Name of Person

R14-3-105. Intervention as party and other appearances

A. Intervention. Persons, other than the original parties to the proceedings, who are directly and substantially affected by the proceedings, shall secure an order from the Commission or presiding officer granting leave to intervene before being allowed to participate.

B. Application. An application for leave to intervene shall be in writing and must state the basis for the application. Such application shall be served and filed by an applicant at least five days before the proceeding is called for hearing.

Arizona Administrative Code Title 14, Ch. 3

Corporation Commission - Rules of Practice and Procedure December 31, 2006 Page 3 Supp. No 06-4 application for leave to intervene shall be granted where by so doing the issues theretofore presented will be unduly broadened, except upon leave of the Commission first had and received. Upon the granting of an application to intervene by the Commission or the presiding officer, the intervening person shall thereafter be designated an "Intervenor".

C. Other appearances. Notwithstanding the provisions of subsections R14-3-105(A) and R14-3-105(B), any consumer or prospective consumer may appear at any proceeding and make a statement on his own behalf, at a time designated by the Commission or presiding officer. A person so appearing shall not be deemed a party to the proceedings. When two or more interested persons under this rule have substantially like interests and positions, the presiding officer may declare them a class of interested persons for purposes of the hearing. The members of the class shall designate to be spokesman for the class one of their number, or his attorney, or such greater of their number, or attorneys, as the presiding officer shall determine. More than one class may be established for a hearing.

Historical Note

Former Section R14-3-105 repealed, new Section R14-3-105 adopted effective December 17, 1975 (Supp. 75-2).

Name: Patricia A. Behm
Address: 7698 Toya Vista Rd.
Payson, Arizona 85541
Telephone: (928)-474-2959

AFFIDAVIT

State of Arizona)
) **Subscribed Sworn Sealed**
County of Gila)

Now comes Patricia A. Behm, a Citizen of Arizona, Property and Well Owner in the Mesa del Caballo Subdivision (Lot 289; 7698 Toya Vista Rd.) proceeding in Propria Persona, and "without prejudice" to any of my Unalienable Rights; that I do hereby solemnly affirm under oath that I am the Affiant stated herein, having personal knowledge of the facts herein stated, and now deposes and says:

- 1) That on or about March 15, 1997; I, entered into a Well Sharing Agreement with Brooke Utilities, Inc. to buy water from my well (Well No. 55-560398; Location No. A(11-10) 23 abc) to supplement the water supply in the Mesa del Caballo System now part of the Payson Water Co. Inc. My well is connected to the water system and pumps directly into the distribution system main line; and further,
- 2) That on or about June 10, 2012; I, received the attached letter and Check No.027855 in the amount of \$254.27 from Brooke Utilities, Inc. for water pumped from my well (508,540 gallons) an average of 39,118 gallons per month at the rate of \$.50/1,000 gallons for the alleged period of April 17, 2011 to May 16, 2012 (**See: Attached Exhibit 1**); and further,
- 3) That the above Check No. 027855 is the first check and payment I have received from Brooke Utilities, Inc. for water pumped from my well since December of 2007; and further,
- 4) That from December 2007 to April 17, 2011 an average of 1,564,721 gallons has been pumped from my well that I have not been compensated for and for which is owed to me by Brooke Utilities, Inc. per the Water Sharing Agreement approximately \$782.36; and further,

5) That Section IV pages 5 and 6 of the Water Sharing Agreement are specific to the Payment of Consideration and that Brooke shall pay to the Water Owner not later than fifteen (15) days following its reading of the meter connected to the Water Source that complete consideration, except as may be defined herein, pursuant to Schedule 1 of Exhibit E. (See: Attached Exhibit 1).

Further, Affiant Sayeth Naught.

Signed and Sworn to with reservation of all My Unalienable Rights

Patty Behm seal
Signature and Seal of Affiant, a Private
Citizen of Arizona, supra

July 23rd 2012
date of signature

Subscribed and sworn to before me, a Notary Public, this 23rd day of July, 2012.

seal of notary:

Julie Lynn Williams
signature of notary

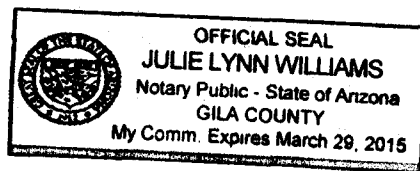


EXHIBIT 1

WATER SHARING INVOICE

Date: May 22, 2012
Invoice: 67718
To: Payson Water Co.
P.O. Box 82218
Bakersfield, CA 93380-2218
Attn: Accounts Payable Department
Requested: RTH
Re: Water Sharing Agreement Invoice April 17, 2011 to May 16, 2012

Pursuant to that Agreement between Water Owner and Payson Water Co., please
Remit payment for water supply between the dates shown above:

Current Meter Read	19281962
Previous Meter Read	18773422
Well Production This Period	508540

Net Amount Due \$ 254.27

Remit To:
Patricia Behm
HC 3 Box 546E
Payson, AZ 85541

Account Cost Code: 13/08-01-7170.00

PLEASE PROVIDE COPY OF INVOICE WITH PAYMENT

BROOKE UTILITIES, INC

To: Patricia A. Behm

00164

Check Number:

027855

Date:

06/08/2012

Voucher Number

Invoice Number

Invoice Date

Gross Amount

Discount Taken

Net Paid Amount

00000000000011451

67718

05/22/2012

\$254.27

\$0.00

\$254.27

TOTALS:

\$254.27

\$0.00

\$254.27

BROOKE UTILITIES, INC
P.O. BOX 82218
BAKERSFIELD, CA 93380-2218

Wells Fargo Bank

027855

11-24/1210(8)

Pay Two Hundred Fifty Four Dollars And 27 Cents

DATE

Jun 8, 2012

AMOUNT

\$254.27

to the Order of:

Patricia A. Behm

HC 3 Box 546E
Payson, AZ 85541

Patricia A. Behm

Patricia A. Behm

STEVE.

1st Check Received Since
12-(Dec) of 2007.

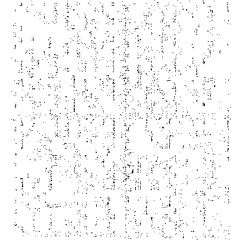
Patricia A. Behm

6-22-2012

P.O. BOX 82515
FIELD, CA 93380-2515

a A. Behm

< 546E
AZ 85541



PRESORTED
FIRST CLASS

ONE AVAILABLE COPY

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

800.424.155

NO POSTAGE
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IF MAILED
IN THE
UNITED STATES

EXHIBIT 2

shall be exclusively limited to the Parties or their assigns, heirs, or transferees as conducted in accordance with this Agreement.

7. **Easements and Access to Water Source:** At Brooke's option Water Owner shall grant to Brooke a private utility easement or a license to enter Water Owner's property for any purpose necessary under this Agreement. Brooke's access to Water Owner's property shall be related to the Water Source which must be sufficient, as exclusively determined by Brooke, for the access to the Water Source site so as to be able to perform regular repairs, operations, and maintenance of the Water Source. In any event, Brooke shall, at all times, be allowed reasonable access, ingress and egress to the Water Source for the purpose of production monitoring, well supervision, production maintenance and repairs and all other routine and regular purposes normally associated with the operation and maintenance of a water source similar to that which is the subject hereunder.
8. **Connection to Public Water System:** Brooke, or its agent or representative, shall connect Water Owner's Water Source to the applicable water system of the Water Subsidiaries in accordance with proper and good workmanship and general conditions of the industry. At all times, Brooke shall maintain the water connection in good condition and comply with the requirements of authorities having jurisdiction over such connection, at Brooke's sole cost and expense. The costs and expenses incurred by Brooke under this section 8 shall not be considered "Maintenance Expenses" for the purposes of this Agreement. Brooke shall, in every case where Water Owner's property is traversed for the purposes under this section, make every reasonable effort to approximately return Water Owner's property to that condition which existed prior to Brooke's work under this section.
9. **Water Owner's Current Water Provider:** As evidenced by its execution of this Agreement, Water Owner does hereby declare that it is not a current water customer of the Water Subsidiaries.

Section III: Option to Purchase Water Source

1. **Brooke's Option to Purchase Water Source:** If applicable, Brooke shall be granted an option to purchase Water Owner's Water Source in accordance with Exhibit F herein.

Section IV: Consideration

1. **Payment of Consideration:** Brooke shall pay to Water Owner not later than fifteen (15) days following its reading of the meter connected to the Water Source that complete consideration, except as may be defined herein, pursuant to Schedule 1 of Exhibit E. Brooke's payment to Water Owner shall be determined by measuring the total gallons of water provided to Water Subsidiary since the last meter reading at the Rate of Consideration indicated in Schedule 1 of Exhibit E. Brooke's payment shall be in valid currency of the United States or by means of corporate check. Brooke

reserves the right to process such payments at any administrative facility it deems appropriate. For the purposes of this Agreement, Brooke's payment to Water Owner hereunder shall be considered paid when Brooke places payment in the United States mails for delivery to Water Owner at the address first indicated above. Excepting the first months meter reading, in no case shall the meter of Water Owner's Water Source be read by Brooke more than approximately thirty-five (35) days from that date when such meter was previously read. The first months water production under this Agreement, as determined by Brooke's meter reading under this Agreement, shall be measured, without consideration of the date first set forth above, from that date Brooke actually began receiving water from the Water Source through the last business day of the applicable month.

2. **Supplemental Consideration** Upon execution of this Agreement and the subsequent successful accomplishment of all conditions precedent hereunder, including but not necessarily limited to the review and approval by Regulatory Authorities, if any, of this Agreement, Brooke, or at its election its assignee, shall pay to Water Owner the sum of one thousand seven hundred sixty dollars and no cents (\$1,760.00) as further consideration ("Supplemental Consideration") and an inducement to Water Owner to execute this Agreement. The Supplemental Consideration payment described by this section shall be in addition to any other form of consideration described hereunder.
3. **Minimum Consideration** Notwithstanding any provisions of the section Brooke shall have no obligation to pay Water Owner any minimum amount for its regular monthly use or nonuse of the Water Source.

Section V: Term

DATE 3/15/97

1. **Term** The term of this Agreement shall be five (5) years from the date first set forth above and shall, absent either Parties proper notice of the other Party of its intention to terminate or renegotiate the Agreement, in accordance with the requirements set forth herein, automatically be renewed for consecutive and individual five year terms thereafter subject to the termination and renegotiation provisions set forth hereunder.

3/15/2002

Section VI: Termination and Renegotiation of the Agreement

1. **Notice to Terminate** In the event either Party desires to terminate this Agreement the Party seeking termination shall be required to provide the other Party written notice ("Termination Notice") of its intention to terminate this Agreement. The Termination Notice required hereunder shall not to be received by the non-terminating Party less than one hundred and eighty (180) days prior to the expiration of this Agreement. Failure by the Party seeking termination under this section to provide proper notice as described hereunder shall constitute a full and complete waiver by the Party seeking termination of its intentions to terminate this Agreement until the applicable notice period of the immediately succeeding five (5) year contract period.

Exhibit E

Consideration

Water Owner's full and complete consideration received from Brooke for use of its Water Source as a supplemental water supply shall be based on the gallons of water utilized from the Water Source, as otherwise defined in accordance with this Agreement as measured in gallons per minute ("GPM"). Accordingly, Brooke and Water Owner agree that such compensation shall be paid in accordance with Schedule 1 provided below:

Schedule 1:

Water Source Production			
Water Source	Daily Water	Monthly Water	
Production	Production	Production	Rate of Consideration
in GPM	in Gallons	in Gallons	per 1,000 Gallons
5	7,200	216,000	\$ 0.50
6	8,640	259,200	\$ 0.50
7	10,080	302,400	\$ 0.50
8	11,520	345,600	\$ 0.50
9	12,960	388,800	\$ 0.50
10	14,400	432,000	\$ 0.50
11	15,840	475,200	\$ 0.50
12	17,280	518,400	\$ 0.50
13	18,720	561,600	\$ 0.60
14	20,160	604,800	\$ 0.60
15	21,600	648,000	\$ 0.60
16	23,040	691,200	\$ 0.60
17	24,480	734,400	\$ 0.60
18	25,920	777,600	\$ 0.60
19	27,360	820,800	\$ 0.60
20	28,800	864,000	\$ 0.75
21	30,240	907,200	\$ 0.75
22	31,680	950,400	\$ 0.75
23	33,120	993,600	\$ 0.75
24	34,560	1,036,800	\$ 0.75
25	36,000	1,080,000	\$ 0.75
26	37,440	1,123,200	\$ 0.75
27	38,880	1,166,400	\$ 1.00
28	40,320	1,209,600	\$ 1.00
29	41,760	1,252,800	\$ 1.00
30	43,200	1,296,000	\$ 1.00
31	44,640	1,339,200	\$ 1.00
32	46,080	1,382,400	\$ 1.00
more	1,382,401		\$ 1.25